

# *Rosewood Villas Homeowners'* *Association, Inc.*

## ❖ **BYLAWS** ❖ **AUGUST 13, 2015**

### **REVISIONS**

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02/16/2016: VII.F.4.e)

08/22/2019: VI.A.8.a)ii.

08/20/2020: VII.F.4.e)

07/13/2021: VI.B.5. & X.A.2-4



## BYLAWS of the *Rosewood Villas Homeowners Association, Inc.*

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### I. NAME AND LOCATION:

- A. The name of the corporation is Rosewood Villas Homeowners Association, Inc., located at the southeast corner of Mt. Read Boulevard and Dorsey Road, Town of Greece, City of Rochester, County of Monroe, New York State, 14616-3449.

### II. DEFINITIONS:

- A. Definitions used within this document for the purpose of adding clarity are as follows:
- Absentee Ballot** is a document completed in advance of an election by a Homeowner who cannot attend a meeting where a predetermined slate of Board Officer Candidates or known proposition(s) will be voted. Ballots must be completed, placed in a sealed envelope, signed and dated by the Homeowner and given to the secretary or assigned individual prior to Election Day, e.g., annual Homeowners' Meeting. Also, see "Proxy (Proxies)" in this Article.
- Annual Standard Assessment** is the amount of money established by the Board that is to be paid to the Association for the standard care and upkeep of building exteriors and Common Property. It is commonly referred to as the HOA fee.
- Association** means Rosewood Villas Homeowners Association, Inc., and its successors and assigns.
- Board** means the Board of elected Officers of the Association.
- Common Property** or **Common Area** means all real property owned by the Association for the common use and enjoyment of the Homeowners.
- Declaration** means the *Declaration of Covenants, Conditions, Easements, and Restrictions* applicable to the property as recorded in the office of the Clerk of the County of Monroe.
- Elected Officer** or **Officer** is a person who serves on the Board of Officers of the Association.
- Fiscal Year** is the twelve (12) full months of the HOA calendar year; that is, September 1 thru August 31.
- HOA** means Homeowners Association.
- HOA fee** is the same as an Annual Standard Assessment divided into 12 equal monthly increments.
- Member** is the person/s who own a Unit on Coran Circle, and who automatically becomes a Member of the Association and has the right to vote on issues concerning the HOA, as provided in the *Declaration*. Hereafter referred to as Homeowner.
- Owner** is the Homeowner on record for an individual Unit, whether one or more persons or entities. The Owner is also known as a Homeowner or Member and must be at least 55 years old. Hereafter referred to as Homeowner.
- Primary Occupant** is a person who does not rent or own the Unit but lives in the Unit, often to care for the Homeowner, e.g., caregiver or offspring. Other occupants may reside in the Unit under the authority of the primary occupant.
- Property** means that certain interest in real property as described in the *Declaration* and such additions thereto as may thereafter be brought within the jurisdiction of the Association.
- Proxy (Proxies)** means a person acting as a substitute in place of a Homeowner who cannot attend a meeting where voting for Board Officers or on Propositions take place. The Proxy can voice opinions and vote on behalf of the Homeowner.
- Special Assessment** is a large specific amount of money divided and billed in equal increments to all Homeowners to fund a specific project or allocated for a unique purpose outside of standard operating expenses when there is not enough money in the Reserve to cover the cost. A Special Assessment is determined by the Board and

voted on by the Homeowners. It shall be collected over a short-term period of time (1-5 years), and will cease when the goal amount is collected in full.

**Tenant** means a resident who is paying rent to the Unit's Homeowner to live in the Unit for a specified time in increments of 30 days.

**Unit** is a single home address at 1-30 Coran Circle.

**VOTING TERMS:**

**Majority** means when a candidate or proposition wins by more than half (51%) of the votes.

**Plurality** means when one candidate receives more than any other candidate but not necessarily more than half (majority).

**Quorum** means the minimum allowable body of Homeowners necessary to cast a vote.

**III. MEMBERSHIP AND VOTING:**

- A. Members of the Association shall all be Homeowners.
- B. When more than one person holds an interest in any Unit, the vote for such Unit shall be determined among themselves, but in no event shall more than one vote be cast with respect to any one Membership.
- C. Each Member/Owner/Homeowner is entitled to one vote per Unit.

**IV. MEETINGS OF HOMEOWNERS:**

- A. **Annual Homeowners' Meetings:** An annual meeting of all Homeowners shall be held each year in August. The date, time and place of the meeting shall be set by the Board.
- B. **Notice of Regular Meetings:**
  - 1. Written notice of each meeting of the Homeowners shall be given by, or at the direction of the Secretary, or a person authorized to call the meeting, by delivering a copy of such notice at least ten (10) days before the meeting to each Homeowner.
  - 2. The notice shall be sent to the Homeowner last appearing on the books of the Association for the purpose of such notice.
  - 3. The notice shall specify the place, day, date, and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.
- C. **Special Meetings:** Special meetings of the Homeowners may be called at any time by the President of the Association, or by the Board, or upon written request of 50% (15) of Homeowners entitled to vote.
- D. **Quorum:**
  - 1. Those Homeowners attending any meeting in person, including assigned Proxies, constitute a quorum, except as otherwise provided in the *Bylaws* or *Declaration*.
- E. **Proxy (Proxies):**
  - 1. At all meetings of Homeowners if a Homeowner cannot attend, he/she may select a person to attend and act as a Proxy on his/her behalf.
  - 2. Proxies cannot be current or past Homeowners of the Association. They must be over the age of 21, and have the Homeowner's best interest in mind.
  - 3. A Proxy must be named in writing by the Homeowner or his/her Power of Attorney, and filed in advance of the meeting or voting event with the Secretary of the Association.
  - 4. Every Proxy request shall be revocable and shall automatically cease upon completion of the vote, at the end of a meeting, or on an expiration date, as stated on the Proxy form signed by the Homeowner.
- F. **Absentee Ballot:** A Homeowner may request an Absentee Ballot from the Secretary or assigned individual if unable to attend a meeting where voting for Board Officers or known propositions will take place.

1. Such ballots must be completed, placed in a sealed envelope, signed and dated by the Homeowner and given to the Secretary or assigned individual prior to election day, e.g., annual Homeowners' Meeting.
  2. Absentee Ballots can be revoked by the Homeowner at any time prior to the vote.
  3. The Homeowner may also assign a Proxy to attend a meeting on his or her behalf to vote on issues that come up during a meeting. In no case shall the Proxy vote in an instance where an Absentee Ballot has also been submitted. See "Proxies" and "Absentee Ballot" in Article II. DEFINITIONS.
- G. Voting at a Meeting:**
1. **Election of Officers:**
    - a) The Board Officers shall be elected by a plurality of votes cast by Homeowners who attend in person, pre-named Proxies and Absentee Ballots.
    - b) If any Board Officer position is unoccupied and a nomination takes place during the meeting, the position shall be elected by a plurality of votes cast by Homeowners who attend in person and pre-named Proxies.
  2. **Other Voting on Propositions, Motions, and the like:**
    - a) Any other action to be taken by voting of the Homeowners shall, except as otherwise provided in these *Bylaws* or *Declaration*, or as required by law or the *Certificate of Incorporation of the Association*, be authorized by the majority of votes cast by Homeowners who attend in person, pre-named Proxies and Absentee Ballots (if propositions are known in advance).
  3. **Counting Ballots at a Meeting:** Two (2) or three (3) Homeowners present at the Homeowners Annual Meeting, or Special Meeting of the Homeowners, will be selected by the President at the beginning of the meeting to count written ballots, including Absentee Ballots, for the election of Officers, any pre-known propositions or other elections cast by written ballot during the meeting. This committee shall be known as the "Counting Committee", also referred to as "Counters".
    - a) None of the Counters can be seeking any office.
    - b) The Counters must pledge to keep the counts and contents of the ballots forever secret.
    - c) All ballots shall be counted in secret.
    - d) The ballot counting process shall be handled as follows:
      - i. Absentee ballots must be separated from the signed envelopes so that the contents remain secret. Absentee ballot envelopes must be signed and dated to be valid.
      - ii. Ballots shall be counted twice, once by one Counter and again by another Counter. Counts must agree to achieve a successful election.
      - iii. One Counter (possibly the third person if one is selected) will assure a quorum has been reached for each vote, and a majority or plurality of votes has been reached for each candidate or proposition in alignment with these *Bylaws*.
      - iv. Names of Officer-elect winners and pass or fail results from any propositions shall be posted to a Results Summary form and given to the President following each election.
      - v. If comments were made on the ballots, which could add value later, the Counter should make note of such comment(s) on the Results Summary form or a separate sheet of paper and give it to the President following the meeting for further consideration.
      - vi. Following the completion of the election(s), the Counters or any Homeowner must make a motion, second it, and put to a vote of the Membership to destroy all tabulation forms, ballots and envelopes following the completion of the election.

- vii. Counters must put the contents of all ballots, count forms and any other election forms, except the Results Summary form, in an envelope, seal it, and arrange to destroy or recycle it.
    - e) The Counting Committee terminates upon election activity completion.
- H. **Action Without a Meeting:**
  - 1. Whenever Homeowners are required or permitted to take any action by vote, such action may be taken by written consent, without a meeting, by at least 51% (16) of the Homeowners entitled to vote.
- I. **Petitions:**
  - 1. Whenever a Homeowner or group of Homeowners feel there is an important issue to address, they are entitled to write a Petition about that issue for the Board and possible Association Membership action.
  - 2. The Homeowner/s must have at least 51% (16) of the Homeowner population sign the Petition to effect Board action.
  - 3. The signed Petition must be submitted to the Secretary for recording and the Secretary must copy the petition and distribute to the Board within 48 hours of receipt of the signed Petition.
  - 4. The President must decide how to handle the Petition; that is to:
    - a) have a special meeting with the Board and petitioners, and
    - b) have a special meeting of the Homeowners, or
    - c) take action to immediately support/resolve the Petition.
  - 5. The Board must address the Petition without bias.
  - 6. The Board shall not contact anyone who signed the Petition to discuss it independently.
  - 7. The Board must address the contents of the petition within one (1) week.
  - 8. All actions, responses and resolutions/cures resulting from the Petition must first be shared with the petitioner(s) and then recorded in Board minutes.

**V. BOARD OF OFFICERS, SELECTION, TERM OF OFFICE:**

- A. **Number:**
  - 1. The business of the Association shall be managed by a Board of not less than four (4), or more than six (6) Officers, all of whom shall be Homeowners of the Association.
- B. **Term:**
  - 1. Term of Officers shall be two (2) years and terms of office shall be staggered.
  - 2. Homeowners shall elect either two (2) or three (3) Officers in even numbered years for (2) two-year terms and either two (2) or three (3) Officers in odd numbered years for (2) two-year terms.
  - 3. The President, Secretary and Groundskeeper (if one is required) will be voted on in the odd years.
  - 4. The Vice-President and Treasurer will be voted on in the even years.
  - 5. The terms of office for new Board Officers shall commence with the next fiscal year (September 1).
    - a) All documentation from all previous years, including legal documents, contracts, books, records, seals, HOA owned software or hardware, banking documentation, office supplies, postage stamps, etc., must be turned over to the new Officer by the start of the new fiscal year.
    - b) In the case of the Treasurer, the previous Treasurer must transfer all signatory rights to the new Treasurer and other designated Officers for all banks or other accounts by the start of the new fiscal year.
  - 6. A single Board Officer position must not exceed three (3) consecutive terms (total of 6 years).

7. An outgoing Officer (who finishes a third term) may opt to become a candidate in a different capacity; if elected, again serving no more than three (3) consecutive terms in that role.
  8. No Homeowner may serve as a Board Officer for more than six (6) consecutive terms.
- C. Meetings of the Board:**
- 1. Regular Meetings:**
    - a) Regular Board meetings shall be held at such times as determined by the Officers.
    - b) Regular meetings must occur once per month, minimally.
    - c) Future meetings, including date, time and place, should be documented in Board meeting minutes.
    - d) Should the Board decide to skip a meeting, the full Board must agree by majority vote.
    - e) No more than one consecutive Regular meeting shall be skipped.
    - f) If an Officer cannot attend the assigned meeting, the President may choose to change the time, date and/or place of the meeting. In doing so, all Officers must be notified by telephone, text message or by whatever means Officers prefer.
  - 2. Special Meetings:**
    - a) Special meetings of the Board shall be held at any time upon call from President of the Association or of any two of the Officers.
    - b) Notice of the date, time and place of any special meeting shall be given to each Officer at least (1) day before the meeting by telephone or by delivering a notice to the Officer's residence.
  - 3. Attendance by Conference Communication Equipment:**
    - a) Any one or more Board Officers or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time.
    - b) Participation by such means shall constitute presence in person at the meeting.
  - 4. Place of Meetings:**
    - a) Regular and special meetings of the Board shall be held at a private location as determined by the Board or the person or persons authorized to call the meeting.
- D. Quorum:**
1. It shall be necessary to attain a quorum of Board Officers to transact business at each meeting of the Board as follows:
    - a) On a 4-person Board, three (3) Officers constitute a quorum.
    - b) On a 5-person Board, three (3) Officers constitute a quorum.
    - c) On a 6-person Board, four (4) Officers constitute a quorum.
  2. Under no circumstance, except in an absolute emergency, should the Board vote to take any action without a quorum of Board Officers present and the quorum must agree unanimously on all actions or wait until the full Board is present to vote.
  3. In the event one or more persons vacate their positions permanently, no new actions shall be voted upon, except in emergency circumstances, until the vacated positions are filled, regardless of the remaining term left by the vacated position. See Article VII. OFFICERS AND THEIR DUTIES.
- E. Action Without a Meeting:**
1. Any action required or permitted to be taken by the Board or any committee at a duly held meeting may be taken without a meeting if all Officers or the committee members consent in writing to the adoption of a resolution authorizing the action.

2. Such resolution and the written consents by the Board or the committee members shall be filed with the minutes of the proceedings of the Board or the committee.

**F. Compensation:**

1. Officers and any committee participants as such shall not receive any monetary or other compensation for their services.

**VI. POWERS AND DUTIES OF THE BOARD OF OFFICERS:**

**A. Powers:** The Board, on behalf of the Association, shall have the power to:

1. **Adapt and enforce the *Rules & Regulations*** governing the use and maintenance of the Common Property, the personal conduct of the Homeowners and their tenants/occupants, and invitees thereon, and to enforce monetary penalties decided on for the infraction thereof.
2. **Suspend the right to the use of the Common Property** except for ingress to and egress from the Homeowner's Unit during any period in which such Homeowner shall be in default in the payment of any Assessment levied by the Association.
  - a) Such rights may also be suspended for any infraction of published *Rules & Regulations*.
  - b) The offending Homeowner and residents or tenants of the same must comply within sixty (60) days after a notice and hearing with the Board.
3. **Exercise all duties vested in or delegated to the Association** and not reserved to the membership of Homeowners by other provisions of these *Bylaws*, the *Certificate of Incorporation* of the Association, or the *Declaration*.
4. **Declare the position of an Officer to be vacant** in the event such Officer shall be absent from three (3) consecutive regular meetings of the Board.
5. **Procure and maintain adequate liability and hazard insurance** on the Property:
  - a) The Board, on an annual basis, shall review the amount of insurance coverage in order to assure that the Association and Homeowners are fully protected.
  - b) As more fully defined in the *Declaration*, annually, each Homeowner will be issued a certificate from the master policy that will indicate the amount of coverage on the Homeowner's Unit and will name the Homeowner and the Association as the insured.
6. **Employ a management system**, an independent contractor or such other employees, as it deems necessary to prescribe their duties.
7. **Establish a dedicated capital Reserve** fund for major repairs and replacements of those deteriorating assets for which the Association is responsible.
8. **Approve the annual Budget** as prepared by the Treasurer and agreed upon by a majority of votes cast by Homeowners who attend a Homeowners' meeting in person, pre-named Proxies and Absentee Ballots.
  - a) The annual Budget shall include:
    - i. Monthly Operating expenses (checking) for HOA Maintenance, Operations, Finance and Business, and
    - ii. \* Reserve allocation funds (savings) as approved by the Homeowners, for emergency repairs, biennial maintenance and special project savings, e.g., roof replacement, etc. \* (Per Homeowners' meeting vote on 8/22/2019, no funds should ever be used for personal or social use, thereby eliminating "internal memorial funding".)
  - b) The annual budget shall provide for "Cost of Living" increases based on standards in the area.
9. **Manage Special Expenditures with Homeowners** input: Expenditures for special projects exceeding \$2,500 (in total) or greater must be pre-approved by the Homeowners before any contracts are signed or the project is started.
  - a) A meeting of the Homeowners must take place to discuss the project plan.



- b) A minimum of 51% (16) of the Homeowners entitled to vote must approve such expenditures by votes cast in person, by Proxy or Absentee Ballot.
  - c) The Board must not partition the total project in segments for a single project to divide funding such as to avoid Homeowner meetings or voting.
  - d) In emergencies, the Board has the authority to take action, regardless of the cost, to temporarily resolve the problem to prevent further damage.
10. **Assure that no Officer can take any action**, physical or financial, without the approval of a quorum of Officers on the Board.
11. **Determine and manage Annual and Special Assessments** as financially responsible to maintain the building exteriors and Common Property.
12. **Exercise any legal means necessary to protect the property and rights** of the Association, its Homeowners, guests, tenants and residents.
- B. **Duties:** It shall be the duty of the Board to:
- 1. **Keep complete records of all its acts and corporate business.**
    - a) Present a statement to the Homeowners at the annual Homeowners' Meeting or at any special meeting when such statement is requested in writing by one-fourth (1/4 = 25% = 8) of the Homeowners who are entitled to vote.
  - 2. **Supervise all agents and employees of the Association** to assure that their duties are properly performed.
  - 3. **Collect Assessments (Annual and Special) and disburse funds** as appropriate to employees, contractors, and other service providers or individuals in payment of goods and services used in the management and maintenance of the Common Property and building exteriors.
  - 4. **Establish the amount and starting day of the Annual Assessment** against each Unit as more fully explained in the *Declaration*.
    - a) Send written notice of each Assessment to every Homeowner at least forty-five (45) days in advance of each Annual Assessment period.
  - 5. **\* When Assessments are 5 days past due, send a late notice attaching a late fee.** On day 6 interest of 5% or at the legal rate of interest, whichever is in the best interest of the Association, to be applied daily until the Assessment and all charges are paid up to 30 days past due. Thereafter, foreclosure a lien against the Unit or bring an action at law against the Homeowner personally obligated to pay the same. See Article X. ASSESSMENTS. \* (By 2021 petition majority, changed 15 days past due to 5 days. In addition, on day 6 up to 30 days past due apply interest. Foreclosing a lien remains the same.)
  - 6. **Issue a receipt for paid Assessments**, if a Homeowner requests one. It shall be provided by the Officer in charge of collecting Assessments.
    - a) If a receipt states an Assessment has been paid, such receipts shall be conclusive evidence of such payment.
  - 7. **Secure and maintain adequate liability and hazard insurance** on property where the Association has a legal interest.
  - 8. **Cause all Officers, agents, or employees having fiscal responsibilities to be licensed, bonded and insured** as appropriate or in line with their trade.
    - a) Obtain a copy of liability insurance forms and Workmen's Compensation forms for all contractors and employees and review as required the expiration dates on all documents.
  - 9. **Cause the Common Property and Building Exteriors to be maintained.**
  - 10. **Cause a financial statement** for the Association to be prepared and certified by the Association's independent Certified Public Accountant for the preceding fiscal year following the end of each fiscal year.
  - 11. **Establish that a violation has been made** of the official *Rules & Regulations*, the *Declaration* or of these *Bylaws* and appropriate notice given to the violator.
    - a) Appropriate notice is a verbal request by one of the Officers.

- b) After a period of two (2) weeks from the verbal notice, a written notice shall be mailed by USPS Certified Mail, Return Receipt Requested, and recorded as an official action.
  - c) If the violation is not corrected thereafter, a fee shall be levied as defined by the Board and handled in the same way as an unpaid Assessment if not paid within 60 days of written notice.
12. **Assure that assignments given to Board Officers** are initiated within one (1) week and progress reports provided at regular Board meetings until such assignments are completed.
- a) For any reason if the Officer cannot comply with this requirement, it is the Board's responsibility to appoint another Officer to complete the assignment or the Board should vote to abandon the assignment.
13. **Assure that when a Unit's exterior surface requires an experienced contractor and major expenditure** that at least three (3) written estimates are presented to the Board for its decision, except when an emergency repair is necessary to prevent further damage to the exterior and/or interior of the Unit.

## VII. OFFICERS AND THEIR DUTIES:

- A. **Enumeration of Officers:** The Officers of the Association shall be a President, a Vice-President, a Secretary, a Treasurer, and Groundskeeper (if one is required), and such other Officers as the Board may from time-to-time, by a resolution, create.
- B. **Election of Board Officers:** The election of Officers shall take place at the annual Homeowners' Meeting in August. See Articles V. BOARD OF OFFICERS, SELECTION, TERM OF OFFICE –and- IV. MEETINGS OF HOMEOWNERS.
- C. **Term:** The Officers of the Association shall be elected, annually, by the Homeowners and hold office for two (2) consecutive years, unless he or she shall resign sooner, be removed or otherwise be disqualified to serve. See Article V. BOARD OF OFFICERS, SELECTION, TERM OF OFFICE.
- D. **Resignation and Removal:**
  - 1. Any **Officer may be removed** from office with cause, by majority of the Board.
  - 2. Any **Officer may resign** at any time by giving written notice to the Board, the President or the Secretary.
    - a) Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein.
    - b) The acceptance of such resignation shall not be necessary to make it effective.
  - 3. The announcement of any Officer leaving the position for any reason will be recorded in the next monthly minutes of the Board.
- E. **Vacancies:** See Article VI. POWERS AND DUTIES OF THE BOARD OF OFFICERS.
  - 1. A vacancy in any office must be filled by Board appointment within thirty (30) days of the vacancy for the remainder of the fiscal year.
    - a) The remaining one (1) year term (if there is one) shall be voted on at the annual Homeowners' Meeting in the same manner as a standard Board Officer election.
    - b) The person who wins by a plurality of the votes cast by Homeowners who attend in person, pre-named Proxies and Absentee Ballots wins the election for the remaining one (1) year term.
- F. **Duties:** The duties of the Officers are as follows:
  - 1. **All Officers.** All Officers shall:
    - a) Uphold and reinforce the *Rules & Regulations, Bylaws and Declaration* of the Association.
    - b) All incoming mail to any Officer must be submitted promptly to the Secretary to be recorded.

2. **President** shall:
  - a) Preside at all meetings of the Board.
  - b) See that orders and resolutions of the Board are carried out.
  - c) Sign contractual instruments.
  - d) Exercise and discharge such other duties as may be required by the Board.
3. **Vice-President** shall:
  - a) Act in the place and stead of the President in the event of his or her absence, inability or refusal to act.
  - b) Work with the Treasurer to establish an annual budget, yearly audit, reconcile monthly statements, and countersign checks of \$500 and greater outside of standard operating expenses.
  - c) Work with the Treasurer to prepare documentation for an annual audit of the Books by a Certified Public Accountant and participate in the audit meeting(s).
  - d) During times of extended absence by the Treasurer, the Vice-President shall carry out such duties as collecting Assessments, making deposits and withdrawals, and paying service providers/vendors in a timely manner.
  - e) Serve as Committee Leader when the Board appoints other committees.
  - f) Exercise and discharge such other duties as may be required by the Board.
4. **Secretary** shall:
  - a) Work with the Election Committee to execute duties as appropriate prior to each annual Homeowners' Meeting.
  - b) Record the votes of the Homeowners, Proxies, and Absentee Ballots (as appropriate) in all Board Officer Elections, propositions and the like, as well as for petitions of the Homeowners.
  - c) Serve notice of meetings of the Board and of the Homeowners.
  - d) Keep the minutes of all meetings and proceedings of the Board and of the Homeowners.
  - e) \* Prepare, copy and distribute meeting minutes via hard copy or electronic means (e.g., email) to the Board and Homeowners. \* (In 2016 changed to "distribute Board monthly and homeowners quarterly". At Homeowners' meeting 8/20/2020 reverted back to homeowners receiving all Board meeting minutes by vote.)
  - f) Keep appropriate current Homeowner membership records including:
    - i. addresses, names, phone numbers and e-mail addresses for release to Homeowners, and;
    - ii. emergency contact names, phone numbers and relationship to Homeowners for internal Board use only.
  - g) Keep the corporate seal of the Association and affix it to all documents requiring said seal.
  - h) Promptly accept and record any mail submitted to and received from any Officer.
  - i) Exercise and discharge such other duties as may be required by the Board.
5. **Treasurer** shall:
  - a) Receive and deposit in appropriate bank accounts all monies of the Association via checks and other negotiable instruments, Electronic Funds Transfer (EFT) or by other electronic means;
  - b) Disburse such funds as necessary to maintain Association requirements via a checking account:
    - i. have the Vice-President countersign any check of \$500 or greater outside of standard operating expenses.
  - c) Work with the Vice-President to keep proper books of accounting, reconcile monthly statements, and report balances against the budget at regular Board meetings for publication in meeting minutes:

- i. The Board minutes should report the beginning Checking balance, total deposits, itemized expenses, summary of expenses, ending Checking balance; and report the Reserve beginning balance, deposits (including any interest), withdrawals, reason for such withdrawals and Reserve ending balance.
    - ii. The Board minutes should report the balances in monthly increments to avoid gaps in monthly reporting, e.g., January 1-31, February 1-28, etc.
  - d) Work with the Vice-President to prepare an annual budget proposal and a statement of income and expenditures:
    - i. Review the budget with the Board for their approval.
    - ii. Copy and distribute the Board pre-approved budget proposal to Homeowners at least ten (10) days in advance of the annual Homeowners' Meeting.
    - iii. The Homeowners will vote on the adoption of the proposed Budget at the annual Homeowners' Meeting each August.
  - e) Prepare documentation and arrange for an annual audit of the Books by a Certified Public Accountant (auditor) with support and presence of the Vice-President:
    - i. Provide copies of the full report within ten (10) days of the completed audit to each Board Officer and any Homeowner who wants one.
  - f) Supply on demand, by any (2) Homeowners or any Board Officer, evidence of bank or other account statements.
  - g) One ad hoc meeting per year should be arranged in a timely manner with the Certified Public Accountant (auditor) if there is a request by any two (2) Homeowners or any Board Officer.
  - h) Exercise and discharge such other duties as may be required by the Board.
- 6. **Groundskeeper** shall:
  - a) Monitor the performance of vendors per contracts let for snow removal, lawn care and landscaping.
  - b) Work with the Board to carry out any proposals beyond those of existing contracts and in no way authorize or hire services independently to perform services outside of existing contracts.
  - c) Provide regular reports at Board meetings regarding contractor satisfaction and property conditions.
  - d) Report all issues and resolutions resulting from "Property Report/Problem" forms submitted by Homeowners to the Board:
    - i. Return "Property Report/Problem" forms to Homeowners with written updates, including dates of resolution.
  - e) Report problems, situations or suggestions for property improvement to the Board where collectively they will decide what actions to pursue:
    - i. Exterior maintenance of Units and paved areas is the responsibility of the collective Board.
  - f) Exercise and discharge such other duties as may be required by the Board.

## VIII. COMMITTEES:

- A. **Election Committee:** The Board will annually request two volunteers, who will work with the Secretary to prepare the election slate, distribute candidate and proposition information to Homeowners, distribute and collect Absentee Ballots as requested by non-attending Homeowners.
- B. **Counting Committee:** The committee's purpose is to count written ballots in a fair and honest manner at elections of the Homeowners and report results. After each election period concludes, the committee terminates. Duties of this committee are further described in Section G.3. of Article IV. MEETINGS OF HOMEOWNERS.

- C. **Other Committees:** The Board shall appoint such other committees as deemed appropriate for carrying out its purposes.

**IX. BOOKS AND RECORDS:**

- A. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Homeowner.
- B. The *Certificate of Incorporation* shall be available for inspection by any Homeowner at the office of the Secretary.
- C. As of July/August 2015, all Homeowners have a book, called "Homeowner's Manual", containing the most current copy of the *Rules & Regulations, Bylaws* and *Declaration*. The Homeowner's Manual must remain with the Unit at all times. Replacing it will be at the expense of the current Homeowner. The replacement cost is to be determined by the Board.
1. Updates of the *Rules & Regulations* and *Bylaws* will be copied and distributed to Homeowners by the Secretary as changes are made at no charge to the Homeowner.
  2. If a Homeowner needs another copy of any document, there will be a fee as set forth by the Board.

**X. ASSESSMENTS:**

- A. As more fully provided for in the *Declaration*, each Homeowner is obligated to pay to the Association Annual and Special Assessments that are secured by a continuing lien upon the property against which the Assessment is made.
1. Any Assessments that are not paid when due shall be delinquent.
  2. \* **A grace period** of no more than five (5) days will be allowed.
  3. \* **After the grace period** of five (5) days, the **Association will levy a late fee (\$25 or as determined by the Board of Directors, annually)** on a delinquent account unless other special arrangements are made with the Board in advance, with cause.
    - a) The Association has the right to waive a FIRST offense of a late Assessment.
    - b) The Association has the right to reject any request for special arrangements without explanation.
    - c) Notice shall be sent to the Homeowner by USPS Certified Mail, Return Receipt Requested.
  4. \* If the Assessment is not paid five (5) days after the due date, on the 6th day and thereafter daily, the Assessment shall bear interest of 5% or at the legal rate of interest, whichever is in the best interest of the Association, from such date until paid.
  5. After thirty (30) days delinquent the Association may bring an action at law against the Homeowner personally obligated to pay the same or foreclosure the lien against the property.
    - a) The interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such Assessment.
- \* (By 2021 petition majority paragraphs 2-4 are changed as follows: late fee of \$25 or as determined annually by the Board can be assessed; changed 15 days past due to 5 days. In addition, on day 6 up to 30 days past due apply interest.)

**XI. CORPORATE SEAL:**

- A. The Association shall have a seal in circular form having within its circumference the words: Rosewood Villas Homeowners Association, Inc.
- B. The Corporate Seal shall be kept and maintained by the Board secretary.

## XII. TENANTS or OTHER OCCUPANTS:

- A. Tenants or primary occupants must be at least 55 years of age to live on the premises.
  - 1. No one under the age of twelve (12) may be a residential occupant on the property for longer than two weeks.
- B. Should the Homeowner move to a facility for permanent or palliative care and is assessed such as not to return to the Unit, anyone living in the Unit under the age of 55 must be advised to move within ninety (90) days of the Homeowner's assessment.
- C. Any lease or occupancy of a building within the subdivision shall provide for full compliance by the tenant or other occupants with the *Declaration*, these *Bylaws*, and the *Rules & Regulations* of the Association.
- D. Should a tenant or other occupant be in violation thereof at any time, the Association may send the Homeowner of the Unit that said tenant or other occupant resides, written notice of such violation by USPS Certified Mail, Return Receipt Requested, at his or her address as set forth in the books and records of the Association.
  - 1. If the violation is not cured or eviction proceedings commenced against the tenant or other occupant by the Homeowner at the Homeowner's expense within ten (10) days after the Homeowner has received notice of such violation, the Association may pursue any remedies that it may have.

## XIII. INDEMNIFICATION (Description of Indemnitee):

- A. Each **person who has or is made a party to or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding**, whether civil, criminal, administrative or investigative (hereinafter a "Proceeding"), by reason of the fact that he or his testator or intestate (a) is or was an Officer of the Association or (b) is or was an Officer of the Association who serves or served, in any capacity, any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise at the request of the Association (hereinafter an "indemnitee"), shall be indemnified and held harmless by the Association against all expense, liability and loss, including ERISA excise taxes or penalties, judgments, fines, penalties, amounts paid in settlement (provided the Board of Officers shall have given its prior consent to such settlement, which consent shall not be unreasonably withheld by it) and reasonable expenses, including attorneys' fees, suffered or incurred by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be an Officer and shall inure to the benefit of the indemnitee's heirs and fiduciaries; provided, however, that no indemnification may be made to or on behalf of any Officer if his acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or otherwise disposed of, or he personally gained in fact a financial profit or other advantage to which he was not legally entitled Notwithstanding the foregoing, except as contemplated by Section C of this Article, the Association shall indemnify any such indemnitee in connection with a proceeding (or part hereof) initiated by such indemnitee only if such proceeding (or party thereof) was authorized by the Board of Officers of the Association.
- B. All **expenses reasonably incurred by an indemnitee** in connection with a threatened or actual proceeding with respect to which such indemnitee is or may be entitled to indemnification under this Article shall be advanced to him or promptly reimbursed by the Association in advance of the final disposition of such proceeding, upon receipt of an undertaking by him or on his behalf to repay the amount of such advances, if any, as to which he is ultimately found not to be entitled to indemnification or, where indemnification is granted, to the extent such advances exceed the indemnification to which he is entitled. Such person shall cooperate in good faith with any request by the Association that common counsel be used by the parties to an action or proceeding who are similarly situated unless to do so would be inappropriate due to an actual or potential conflict of interest.

C. **Final disposition of a proceeding:**

1. Not later than thirty (30) days following final disposition of a proceeding with respect to which the Association has received written request by an indemnitee for indemnification pursuant to this Article or with respect to which there has been an advancement of expenses pursuant to Section B of this Article, if such indemnification has not been ordered by a court, the Board of Officers shall meet and find whether the indemnitee met the standard of conduct set forth in Section A of this Article, and, if it finds that he did, or to extent it so finds, shall authorize such indemnification.
2. Such **standard shall be found to have been met unless:**
  - a) a **judgment or other final adjudication adverse to the indemnitee** established that the standard of conduct set forth in Section A of this Article was not met,
  - b) if the **proceeding was disposed of other than by judgment or other final adjudication**, the Board of Officers finds in good faith that, if it had been disposed of by judgment or other final adjudication, such judgment or other final adjudication would have been averse to the indemnitee and would have established that the standard of conduct set forth in Section A of this Article was not met.
3. If the **Board of Officers fail or is unable to make the determination** called for by paragraph (1.) of this Section C, or if indemnification is denied, in whole or part, because of an adverse finding by the Board of Officers, or because the Board of Officers believes the expenses for which indemnification is requested is unreasonable, such action, inaction or inability of the Board of Officers shall in no way affect the right of the indemnitee to make application therefore in any court having jurisdiction thereof. In such action or proceeding, or in a suit brought by the Association to recover an advancement of expenses pursuant to the terms of an undertaking, the issue shall be whether the indemnitee met the standard of conduct set forth in Section A of this Article, or whether the expenses were reasonable, as the case may be (not whether the finding of the Board of Officers with respect thereto was correct). If the judgment or other final adjudication in such action or proceeding establishes that the indemnitee met the standard set forth in Section A of this Article, or that the disallowed expenses were reasonable, or to the extent that it does, the Board of Officers shall then find such standard to have been met or the expenses to be reasonable, and shall grant such indemnification, and shall also grant to the indemnitee indemnification of the expenses incurred by him in connection with the action or proceeding resulting in the judgment or other final adjudication that such standard of conduct was met, or if pursuant to such court determination such person is entitled to less than the full amount of indemnification denied by the Association, the portion of such expenses proportionate to the amount of such indemnification so awarded. Neither the failure of the Board of Officers to have made timely a determination prior to the commencement of such suit that indemnification of the indemnitee is proper in the circumstances because the indemnitee has met the applicable standard of conduct set forth in Section A of this Article, nor an actual determination by the Board of Officers that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct. If any suit brought by the indemnitee to enforce a right to indemnification, or by the Association to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to indemnification, under this Article or otherwise, shall be on the Association.
4. A **finding by the Board of Officers** pursuant to this Section C that the standard of conduct set forth in Section A of this Article has been met shall mean a finding:

- a) by the Board of Officers acting by a quorum consisting of Officers who are not parties to such proceeding or,
  - b) if such a quorum is not obtainable, or if obtainable, such a quorum so directs, by the Board of Officers upon the written opinion of independent legal counsel that indemnification is proper in the circumstances because the applicable standard of conduct has been met, or by the Homeowners upon a finding that such standard of conduct has been met.
- D. **Contractual Article.** The rights conferred by this Article are contract rights, which shall not be abrogated by any amendment or repeal of this Article with respect to events occurring prior to such amendment or repeal and shall, to the fullest extent permitted by law, be retroactive to events occurring prior to the adoption of this Article. No amendment of the Not-for-Profit Association Law, insofar as it reduces the permissible extent of the right of indemnification of an indemnitee under this Article, shall be effective as to such person with respect to any event, act or omission occurring or allegedly occurring prior to the effective date of such amendment irrespective of the date of any claim or legal action in respect thereto. This Article shall be binding on any successor to the Association, including any corporation or other entity, which acquires all or substantially all of the Association's assets.
- E. **Non-exclusivity.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which any person covered hereby may be entitled other than pursuant to this Article. The Association is authorized to enter into agreements with any such person provided rights to indemnification or advancement of expenses in addition to the provisions therefore in this Article, and the Association's Homeowners and its Board of Officers are authorized to adopt, in their discretion, resolutions providing any such person with any such rights.
- F. **Insurance.** The Association may maintain insurance, at its expense, to protect itself and any Officer, employee or agent of the Association or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under this Article or applicable law.
- G. **Indemnification of Employees and Agents of the Association.** The Association may, to the extent authorized from time to time by the Board of Officers, grant rights to indemnification and the advancement of expenses to any employee or agent of the Association with the same scope and effect as provided in this Article to Officers of the Association.

#### XIV. AMENDMENTS:

- A. Any recommended revisions of the *Bylaws* of the Association must be presented in writing. The Homeowners shall have the power to adopt, amend or repeal the *Bylaws* by 51% (16) of the Homeowners entitled to vote.

#### XV. CONSTRUCTION AND INTERPRETATION:

- A. The **Association shall have the right to construe and interpret the provisions of these *Bylaws*** and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.
- B. Any **conflict in construction or interpretation between the Association and any other person or entity** entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association.
  - 1. The Association may adopt and promulgate reasonable *Rules & Regulations* regarding the administration, interpretation, and enforcement of the provisions of the *Declaration and Bylaws*.



2. In so adopting and promulgating such *Rules & Regulations*, and making any finding, determination, ruling, or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules, or regulations, the Association shall take into consideration the best interests of the Homeowners and residents of the property to the end that the property shall be preserved and maintained as a high-quality community.
- C. In the case of any **conflict between the *Certificate of Incorporation of the Association and Bylaws***, the *Certificate of Incorporation* shall control; and in the case of any conflict between the *Declaration* and *Bylaws*, the *Declaration* shall control.
- D. In the event there are **conflicts to resolve within the Board or Homeowners** the same shall refer to "Roberts Rules of Order" as a document of guidance and clarification.

❖ **DISCLAIMER** ❖

**These *Bylaws* were approved by HOA Homeowners on August 13, 2015 and supersede all previous real or perceived versions of any *Bylaws* for and of *Rosewood Villas Homeowners Association, Inc.***

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❖ **CERTIFICATION** ❖

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I, THE UNDERSIGNED, DO HEREBY CERTIFY:

That I AM THE DULY ELECTED Secretary of Rosewood Villas Homeowners Association, Inc., a New York not-for-profit corporation, and

THAT the foregoing *Bylaws* of said Association were duly adopted as amended at a meeting of the annual Members of the Association and Board of Officers thereof, held on the 13<sup>th</sup> day of August, 2015,

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 13<sup>th</sup> day of August, 2015.

*Kathy M Frisch*

Kathy M. Frisch  
Secretary



